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May 17, 2000

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via Hand Delivery

Magalie Roman Salas, Secretary Office of The Secretary Office of Managing Director Federal Communications Commission 445 Twelfth Street, SW, TWA325 Washington, DC 20554

Re: Ex Parte Presentation of Bachow/Coastel,

L.L.C., WT Docket No. 97-112, CC Docket No. 90-6

Dear Ms. Salas:

Bachow/Coastel, L.L.C. ("Bachow/Coastel"), pursuant to section 1.1206(b)(2) of the Commission's rules, and by its attorneys, herewith files with the Commission an original and one copy of its summary of its ex parte presentation at the Commission on Tuesday, May 16, 2000, and the paper handout from that meeting. On that date, Bachow/Coastel Vice President of Operations, Robert Ivanoff, along with Bachow/Coastel's counsel, Steven J. Hamrick, Esq. of Fleischman and Walsh, L.L.P., met with Michael A. Ferrante, Esq. and Ms. Davida Grant of the Wireless Telecommunications Bureau. Bachow/Coastel is filing two additional copies of this summary with the Commission due to the second docket number attached to this proceeding.

In this meeting, Bachow/Coastel stated that the primary reason for the Commission's proposed rules in its Second Further Notice of Proposed Rulemaking ("Second FNPRM"), which is to provide reliable cellular service in the coastal areas of the Gulf of Mexico,² is no longer at

⁴⁷ C.F.R. § 1.1206(b).

See Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, 65 Fed. Reg. 24168-24169 (April 25, 2000).

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issue, because licensees currently provide reliable cellular service in those geographic areas. The Gulf of Mexico, and most certainly the area proposed to be the Coastal Zone in the Second FNPRM's proposed rules, is covered by Bachow/Coastel's service contours. Bachow/Coastel also cited serious legal issues raised by the Second FNPRM's proposed rules, which do not address the mandate of the United States Court of Appeals for the District of Columbia Circuit's ("D.C. Circuit") decision in *Petroleum Communications, Inc. v. Federal Communications Commission*, 22 F.3d 1164 (D.C. Cir. 1994) ("*Petroleum*"), namely: that limiting Gulf licensees to areas of actual reliable service was arbitrary and capricious; to not apply the same licensing standards to both Gulf-based licensees and land-based licensees without explaining why the Commission would suddenly deviate from its longstanding policy of treating Gulf carriers differently than land-based carriers; and take into consideration the unique nature of operations for Gulf-based licensees. The adoption of the rules proposed in the Second FNPRM raises serious legal questions; indeed, a continuation of this rulemaking proceeding will likely lead to litigation.

Bachow/Coastel noted that the current Commission rules are effectively dealing with carrier problems in the Gulf of Mexico, and are spurring the expansion of coverage throughout the Gulf of Mexico. Bachow/Coastel also recounted how the presence of the Second FNPRM stymied negotiations with land-based licensees for extension agreements and settlement agreements. Finally, Bachow/Coastel raised the possibility of the Commission conducting its own fact-finding study to determine whether there are service reliability issues along the Gulf Coast, and the possibility that the Commission might form two industry working groups to provide recommendations to the Commission (one group would include licensees with Florida coast license areas, and the other group would deal with the remaining Gulf coastal areas).

Mr. Ferrante and Ms. Grant requested that Bachow/Coastel send a coverage map to them. Bachow/Coastel is filing a cellular service coverage marketing map with each of them today, and is contemporaneously attaching a copy of the map to this filing for inclusion in the public record. If you have any questions concerning this filing, or if you require additional information, please do not hesitate to call.

Cordially,

Steven J. Hamrick

Counsel to Bachow/Coastel, L.L.C.

Attach.

Aroposed Rulemaking, Cellular Service find Other Commercial Radio Services

Mile Gulf of Mexico (WILDogker [o. 97-112)

1913y 16, 2000

Bachow/Coastel, LLC

Leview of the Flistory of Proposed Rulemakings

Gulf of Mexico

Third Circuit Court of Appeals Decision

Further Proposed Rulemaking

Further Proposed Rulemaking

Veirein 199

April 2000

The underlying premise for the proposed rulemaking has resolved itself over the past 7 years.

Contrary to the rulemaking's upironi conclusion,

Thabublic is currently receiving reliable

- The Gull exercises have economic incentive to provide quality service in high realitie areas.

 No benefit to warehouse speciment
- Bachow/Coastel has nearly doubled the number cell sites in 3 years
- 3 A-band land based carriers have implemented land based co-location systems
- If there is no significant issue, why have rulemaking for rulemaking's sake'

There are more efficient methods

to address this issue

This is not an industry-wide issue

parties of the party 12 carriers are the real

- THE BUYER I PRINTE or mediate a compromise in 7 years
- The current rules provide opportunities address temporary service deficiencies
- STA (Special Temporary Authorizations)
- IOA (Interim Operating Authority)

The proposed rules raise serious concerns to the Gulf Carriers

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- An extended ruleme king processes likely result in the same parties seeking court intervention and is a waste of resources

The Florida Coast is a

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Higher of the final productions off the Florida

- Coverage all along the Montes Coverage all along the Montes Witter Coverage all along the Montes Coverage along the Montes Cover
- STA
- de minimis Extensions
- Florida Coast only involves a total of 5 Ramers

Chriers, issues, put proposed rulemaking does not Remand required rulemaking to address Gulf

Gui Carriers must continuously deal Vientiniarierence irom land carriers

- Our experiences with GEE over mierference complaints has been time continuing. bullying tactics.
- Effectively, if a Gulf Carrier loses a platform (or a lease) it automatically is stripped of coverage area

Cerriers, issues, put brobosed unlemaking does not Remand required rulemaking to address Culf

Denion formulae rules benefit

- Difference mecelyed affects helyhi
- Current SAR miles produce income signal at the border
- The proposed rules do not solve the inequity, but actually perpetuate the inequity into the Exclusive Zone

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- Florida Coast
- Carriers with Florida Coast territory
- Remaining Gulf Coast Areas
- Initiate FCC staff fact-finding to determine Gulf Coastline whether there are cellular issues along the

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.
 - o Microfilm, microform, certain photographs or videotape.
- Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician at the FCC Reference Information Center, at 445 12th Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

One map.